

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HAYWARD HULL,

Defendant-Appellant.

UNPUBLISHED

June 12, 2007

No. 270190

Wayne Circuit Court

LC No. 05-007071-01

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial conviction for arson of a dwelling house, MCL 750.72. The trial court sentenced defendant to 13 to 20 years in prison. Because when considering the expert testimony offered in this case, and the deference we must accord the trier of fact's determinations regarding the weight of evidence and credibility of witnesses, we conclude that the trial court's determination on the issue of sanity was not clearly erroneous, and affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's factual findings in a bench trial are reviewed for clear error. A finding of fact is considered "clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991). "An appellate court will defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses." *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997). All determinations made by the trier of fact concerning the weight of evidence and credibility of witnesses should not be disturbed. *People v Williams*, 268 Mich App 416, 419; 707 NW2d 624 (2005). Issues of law are reviewed de novo. *People v Phillips*, 246 Mich App 201, 202; 632 NW2d 154 (2001), aff'd 468 Mich 583 (2003).

Legal insanity is an affirmative defense to a criminal charge. MCL 768.21a(1). "The defendant has the burden of proving the defense of insanity by a preponderance of the evidence." MCL 768.21a(3). A person is legally insane if, as a result of mental illness, he "lacks substantial capacity either to appreciate the nature and quality or the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law." MCL 768.21a(1). A mental illness is defined as "a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life." MCL 330.1400(g). A determination of insanity is not mandated merely because a person

is mentally ill. *People v Bailey*, 142 Mich App 571, 573; 370 NW2d 628 (1985). That is because insanity is an extreme form of mental illness, and thus while all insane persons are mentally ill, not all mentally ill persons are insane. *People v Fultz*, 111 Mich App 587, 590; 314 NW2d 702 (1981). Therefore, once a person is determined to have a mental illness, it must also be determined that he lacked the substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law. MCL 768.21a(1).

The trial court found that despite his mental illness, defendant knew that setting fire to the house was wrong. It further found that a preponderance of the evidence did not prove that defendant was unable to resist setting fire to the house. This case came down to a credibility contest between experts. Defendant's expert testified that defendant was unable to appreciate the wrongfulness of his conduct and, because he was in the manic phase of bipolar disorder, he was unable to conform his conduct to the requirements of the law. Plaintiff's expert, on the other hand, testified that defendant set the fire because he gave vent to aggressive feelings after overindulging in drugs and alcohol, not because he did not appreciate the wrongfulness of his conduct. Further, he was not in the manic phase of bipolar disorder because he did not suffer from that disorder and thus mania could not have prevented him from conforming his conduct to the requirements of the law.

Considering the conflicting expert testimony and the deference to be accorded the trier of fact's determinations regarding the weight of evidence and credibility of witnesses, the trial court's determination on the issue of sanity was not clearly erroneous. *People v Culpepper*, 59 Mich App 262, 265-266; 229 NW2d 407 (1975).

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio